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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/736,567

12/17/2003

Chih-Hsiung Yu

YUCH3023/EM

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06/16/2006

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EXAMINER

SMITH, TERRI L

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/736,567	Applicant(s) YU ET AL.	
	Examiner Terri L. Smith	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated (Applicant refers to Figure 1 as conventional, which Examiner interprets as prior art). See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office Action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office Action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: In claim 13, the claimed limitation "a third control circuit for controlling said transmitter circuit" is not disclosed in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 5–6 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 5–6, the term "two said second coil axes" is vague.

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It is unclear which axes are being referred to. It is suggested to say, "wherein said second coil comprises two axes."

5. In claim 14, the term "corresponds to the number of circles" is vague. It is unclear what is meant by corresponds to the number of circles. Does Applicant mean an equal number of coil windings or a particular ratio of coil windings that corresponds to another particular ratio of coil windings, or the number of circles that make up the coil windings, etc.?

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 3, 4, 7, 8, 9, 10, 11, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischell, U.S. Patent 3,888,260.

8. Regarding claim 1, Fischell discloses a first coil winding wound around its coil axis in a first direction (Fig. 3 element 20); at least one second coil winding wound around its coil axis in a second direction non-parallel with a first direction (12); and at least one circuit board (10) having at least one control circuit (column 4, lines 2–12); wherein a first and a second coil windings are electrically connected to a control circuit of a circuit board respectively (Figs. 1a–1b and 3).

9. Fischell discloses a magnetic sensor (Fig. 3) (Examiner is interpreting the entire device to function as a magnetic sensor made up of several magnetic sensors. For this limitation, the core of 12, transformer, is one of the magnetic sensor's which is consistent with Applicant's drawing

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Fig. 2, reference character 11) having a first coil axis (12) and at least a second coil axis non-parallel with a first coil axis (20) wherein a first coil winding is wound around a first coil axis of a magnetic sensor while a second coil winding is wound around a second coil axis of a magnetic sensor (claim 2); a magnetic sensor is made of a ferrite core (claim 3) (column 5, lines 25–29); a first coil axis and a second coil axis are disposed in an orthogonal manner (claim 4) (12 and 20); a first coil winding is electrically connected to a control circuit (claims 7 and 10) (Figs. 1a–1b); a second coil winding is electrically connected to a control circuit (claims 8 and 11) (Figs. 1a–1b); a control circuit includes a first control circuit (10 and Figs. 1a–1b) and a second control circuit (10) (claim 9) (Fig. 1 and Figs. 1a–1b); a number of circles of a first coil winding corresponds to a number of circles of a second coil winding (Fig. 1a, elements 12 and 20; Examiner interprets the coil windings to inherently correspond to a number of circles between one another by virtue of the fact that the inventor chose the windings that he did in order for the invention to function properly).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

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the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the Examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 5–6 are rejected under 35 U.S.C. 103(a) as obvious over Fischell, U.S. Patent 3,888,260 as applied to claim 3 above, and in view of Honig, U.S. Patent 3,218,638.

13. Fischell discloses the essential features of the claimed invention as disclosed above except for two second coil axes are provided, and second coil axes are disposed not only orthogonal to each other but also orthogonal to a first coil axis (claim 5); two second coil windings are provided, and second coil windings are wound around two second axes on a magnetic sensor respectively (claim 6). However, Honig discloses two second coil axes are provided, and second coil axes are disposed not only orthogonal to each other but also orthogonal to a first coil axis; two second coil windings are provided, and second coil windings are wound around two second axes on a magnetic sensor respectively (Figs. 1–3 and 5) to minimize any effect of orientation of a device so that its operation will be independent of movement of the patient and to assist in providing continuous status of a device to ensure a patient's safety. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Fischell to include two second coil axes are provided, and second coil axes are disposed not only orthogonal to each other but also orthogonal to a first coil axis; two second coil windings are provided, and second coil windings are wound around two second axes on a magnetic sensor respectively, as taught by Honig to improve device function and patient safety.

14. Claims 12–13 are rejected under 35 U.S.C. 103(a) as obvious over Fischell, U.S. Patent 3,888,260 as applied to claim 1 above, and in view of Raddi, U.S. Patent 3,454,012.

15. Fischell discloses the essential features of the claimed invention as disclosed above except for an antenna set having a RF antenna set and a transmitter circuit for controlling the action of an RF antenna set (claim 12) and a controller having a third control circuit for controlling a transmitter circuit (claim 13). However, Raddi discloses an antenna set having an RF antenna set (Fig. 2) and a transmitter circuit for controlling the action of an RF antenna set (51) (claim 12) and a controller having a third control circuit for controlling a transmitter circuit (claim 13) (52) to establish good transmission and reception between the devices while administering therapy. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention of Fischell to include an antenna set having a RF antenna set and a transmitter circuit for controlling the action of an RF antenna set and a controller having a third control circuit for controlling a transmitter circuit, as taught by Raddi to enhance device performance for administration of therapy.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Terri L. Smith whose telephone number is 571-272-7146. The Examiner can normally be reached on Monday - Friday, between 7:30 a.m. - 4:00 p.m..

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



TLS

June 12, 2006

12 June 2006



GEORGE R. EVANISKO
PRIMARY EXAMINER

6/12/6